THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No.12802 of 1998

DATED: 28.02.2007

Between:

Golla Chinna Ramanna and others .. Petitioners

And

The Government of Andhra Pradesh rep. by its Secretary, Revenue Department, Secretariat Buildings, Hyderabad and others.

.. Respondents

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THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.12802 of 1998

ORDER:

This Writ Petition is filed seeking a Certiorari calling for the records pertaining to impugned proceedings in Case No.B2/20/92, dated 12.11.1997, passed by the second respondent-Joint Collector, Mahabubnagar district, and consequently quash the same as illegal and arbitrary.

2. It is the case of the petitioners that they purchased the land by virtue of registered and unregistered sale deeds during the years 1967 and 1970 and since then, they have been in possession of their respective lands. Having satisfied with their possession and rights, the third respondent-Sub-Collector, Gadwal, Mahabubnagar, had issued Occupancy Right Certificates to them, under the provisions of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short "the Act"). Questioning the Occupancy Rights Certificates, the fourth respondent initiated proceedings under the Act before the third respondent, but the third respondent vide orders bearing No.B/3621/89, dated 14.03.1992, while rejecting his claim, ordered that the Occupancy Right Certificates shall be given to the petitioners under Section 8(1) of the Act. Challenging the same, the fourth respondent preferred an appeal in Case No.B2/20/92 on the file of the second respondent-Joint Collector, Mahabubnagar, and the same was allowed.

3. A counter has been filed by Respondent Nos.1 to 3 stating that according to the Act, the crucial date for adjudication of the Occupancy rights is reckoned as 01.11.1973 and the petitioners were not in possession of the lands in question as on that date, so as to consider in issuing Occupancy Rights Certificates in favour of the petitioners. It is further stated that the fourth respondent has purchased the lands in question from the inamdar through a registered document No.350/66, dated 14.04.1996, and stepped into the shoes of the inamdar as

successors-in-interest. It is further contended that there is no need of serving notice on the fourth respondent, as required under Sub-Rule (1) of Rule 6 of the Rules framed under the Act, who is also an interested party to the proceedings, and all the inam lands stand vested with the State with effect from 20.07.1995. The orders passed by the third respondent vide orders bearing No.B/3621/89 reveals that the petitioners have filed certified copies of pahanies for the years 1984-85 to 1989-90 alone, but they do not reflect the possession of the petitioners as on 01.11.1973.

4. Heard both the counsel.

5. Questioning the Occupancy Rights Certificates issued by the original authority i.e., the third respondent herein, the fourth respondent initiated proceedings before the third respondent itself and the same was set-aside. Aggrieved by the orders passed by the third respondent, the fourth respondent preferred an appeal before the second respondent-Joint Collector, Mahabubnagar vide orders in Case No.B2/20/92, dated 12.11.1997, and it was allowed. In fact, in matters of this nature, the point that has to be decided is as to who was in possession of the lands in question as on 01.11.1973. Neither the original authority nor the appellate authority has decided this aspect. Though the appellate authority has gone into this aspect, has not decided this aspect as to whether the petitioners or the fourth respondent who was in possession of the lands in question as on 01.11.1973.

6. Now, the learned counsel for the petitioners wanted this Court to look into the documentary evidence, such as pahanies, to establish the fact that the petitioners were in possession of the lands in question as on 01.11.1973, but this Court is of the considered view that instead of

deciding that issue by looking into the pahanies produced by the learned counsel for the petitioners, it is desirable that the same may be produced before the original authority i.e., the Sub-Collector, Gadwal, Mahabubnagar, and contend as to whether the petitioners were in possession of the lands or not as on 01.11.1973. The primary authority after giving sufficient opportunity to the fourth respondent to rebut the same, may pass appropriate orders about the possession of the lands in question as on 01.11.1973.

7. Accordingly, the orders passed by the appellate authority-second respondent vide Case No.B2/20/92 dated 12.11.1997 is hereby set aside and this Writ Petition is accordingly allowed. No costs.

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(GOPALA KRISHNA TAMADA,J)

28.02.2007
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